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Representing the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PATTI A. KERN,

Defendant.

Case No.: 2:19-cr-00032-RFB-VCF

**UNITED STATES' MOTION FOR
ALTERNATIVE VICTIM
NOTIFICATION PROCEDURES**

COMES NOW THE UNITED STATES OF AMERICA, by and through
Nicholas A. Trutanich, United States Attorney, Nicholas D. Dickinson, Assistant

1 United States Attorney, and United States Department of Justice Trial Attorneys
2 Timothy Finley and Daniel Zytnick, hereby respectfully move this Court pursuant
3 to Title 18, United States Code, Section 3771(d)(2), for authorization to employ the
4 victim notification procedures described below, in lieu of those prescribed by
5 section 3771(a), (b) and (c), on the grounds that the number of crime victims in this
6 case makes it impracticable to accord all of the crime victims the rights described
7 in subsection 3771(a).

8 The Crime Victims' Rights Act ("the Act") provides certain rights to victims
9 in federal criminal proceedings. 18 U.S.C. § 3771. Among the rights provided by the
10 Act are a victim's right to "reasonable, accurate, and timely notice" of public court
11 proceedings, *See* 18 U.S.C. § 3771(a). The Act requires "[o]fficers and employees of
12 the Department of Justice and other departments and agencies of the United
13 States engaged in the detection, investigation and prosecution of crime make their
14 best efforts to see that crime victims are notified of, and accorded, the rights
15 described in subsection [3771](a)," 18 U.S.C. § 3771(c)(1), and it instructs the Court
16 to "ensure that the crime victim is afforded" those rights. 18 U.S.C. § 3771(b). The
17 Act defines a crime victim as "a person directly and proximately harmed" as a
18 result of the commission of a federal offense. *Id.* § 3771(e). Importantly, the Act
19 recognizes that for crimes involving numerous victims, the Court has discretion to
20 adopt procedures that will not unduly interfere with the criminal proceedings.
21 Thus, 18 U.S.C. §3771(d)(2) provides:
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1 [i]n a case where the court finds that the number of crime
2 victims makes it impracticable to accord all of the crime victims
3 the rights described in subsection (a), the court shall fashion a
4 reasonable procedure to give effect to this chapter that does not
5 unduly complicate or prolong the proceedings.

6 The Act places no limitations on the alternative procedures which a Court
7 may fashion other than that the procedures be reasonable to effectuate the Act and
8 that they not unduly complicate or prolong the proceedings. *Id.*

9 In this case, the defendant is charged with conspiracy to commit mail fraud
10 for engaging in a direct-mail scheme that sent fraudulent prize promotion mailings
11 to hundreds of thousands of consumers across the United States. The mailings
12 misled victims to believe that they would receive a large cash prize, ranging from
13 hundreds of thousands to several million dollars, if they paid a relatively small fee.
14 The victims did not receive the promised large sums of money. The government
15 determined there are hundreds of thousands of potential victims who paid a
16 delivery fee, generally \$20 or \$25 as directed by the fraudulent mailings.

17 This number of victims make compliance with the notification requirements
18 outlined in section 3771(a), (b) and (c) impracticable. Neither the government nor
19 the Court has the resources to accord all of the victims in this case the notice
20 required by subsection 3771(a). Therefore, due to the large number of victims in
21 this case, the Government intends to use the Justice Department's website for
22 large cases, <http://justice.gov/largecases/>, to direct victims to a case-specific website
23 where all required notices will be posted.

1 **CONCLUSION**

2 Based on the foregoing, the government requests the Court grant the motion
3 for alternative victim notification procedures.

4 DATED: this 10th day of April, 2019.

5 NICHOLAS A. TRUTANICH
6 United States Attorney

7 Nicholas D. Dickinson
8 Assistant United States Attorney

9 /s/ Timothy Finley
10 Timothy Finley, Trial Attorney
11 Daniel Zytnick, Trial Attorney
12 Consumer Protection Branch
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